

RESOLUTION NO. 2015- _____

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF ESTERO, FLORIDA, ADOPTING RECITALS; INVOKING ZONING IN PROGRESS FOR THE AREA ENCOMPASSED IN THE VILLAGE CENTER STUDY AREA ILLUSTRATED ON MAP A, ATTACHED HERETO; ADOPTING EXEMPTIONS; PROVIDING FOR ECONOMICALLY VIABLE USE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Village of Estero was incorporated by referendum held on November 4 3, 2014 and the Village Council was elected on March 3, 2015, pursuant to the Charter of the Village of Estero ("Charter") created by Ch. 2014-249, Laws of Florida; and

WHEREAS, the Charter provides that the Village Council shall have the broadest exercise of home rule powers permitted under the state Constitution and the laws of the state; and

WHEREAS, the Village Council has reviewed the January 2015 Community Planning Initiative Final Report (Report), by Seth Harry & Associates, Inc. and Spikowski Planning Associates, and based on the Report has determined to pursue the preparation and adoption of Land Development Code regulations to implement a walkable, mixed use regulatory framework based on the preliminary concepts in the Report, for the area generally identified in the Report as the Village Center; and

WHEREAS, the Village Center which is the subject of this Resolution is depicted in the Map attached hereto as Map A; and

WHEREAS, the Village has contracted with Seth Harry & Associates, Inc. and Spikowski Planning Associates, and Lewis, Stroud & Deutsch, PL, for the preparation of Land

Development Code Amendments and any appropriate Comprehensive Plan Amendments to implement the concepts set out in the Report; and

WHEREAS, it is anticipated that the adoption of new Land Development Code Amendments pursuant to the concepts set out in the Report will be accomplished in approximately one year; and

WHEREAS, Florida law recognizes the doctrine of “Zoning In Progress” that allows applications for development approval to be accepted but temporarily delayed for a reasonable amount of time while zoning changes are pending that would affect the development approval, as explained in *City of Hollywood v. Hollywood Beach Hotel Co.*, 283 So.2d 867 (Fla. 4th DCA 1973), *aff’d* in pertinent part, 329 So. 2d 10 (Fla. 1976), and *City of Pompano Beach v. Yardarm Restaurant, Inc.*, 509 So.2d 1295 (Fla. 4th DCA 1987); and

WHEREAS, Zoning in Progress prevents the premature review and approvals of new development which may be incompatible with proposed land development regulations that may result from the adoption process; and

WHEREAS, the Village Council has determined that it is in the best interests and welfare of the Village and its residents to invoke Zoning in Progress for any new application for development approval in the Village of Estero in the area depicted in Map A that would be affected by the pending zoning changes.

NOW THEREFORE, THE VILLAGE OF ESTERO HEREBY RESOLVES as follows:

Section 1. Recitals Adopted. That each of the above stated recitals is hereby adopted and confirmed as being true, and the same are hereby incorporated as a part of this

Resolution.

Section 2. Zoning in Progress. After the effective date of this Resolution, any application for development approval within the Village within the area depicted on Map A, attached hereto and made a part hereof, shall be reviewed to determine if it complies with the principles of compact, walkable, transit supportive, mixed use development, with an emphasis on employment, housing, recreational and civic uses, as more fully envisioned by the January 2015 Community Planning Initiative Final Report, insofar as those applications are also consistent with the Village Comprehensive Plan. The final approval of any such development application may be temporarily stayed until the adoption of land development regulations that implement the principles of the Report.

Section 3. Exemptions. The Village Council hereby determines that the following shall be exempt from the application of Zoning in Progress:

- a. Applications for development approval within the area depicted on Map A which are pending and determined to be sufficient for review as of April 17, 2015.
- b. Applications for development approval within the area depicted on Map A which the Village Council determines, after public hearing, proposes particular development for which the Applicant has vested rights to proceed.

Section 4. Economically Viable Use. Nothing in this Resolution shall be construed or applied to prevent all economically viable use of property within the area depicted on Map A.

Section 5. Severability. If any section, subsection, clause or provision of this Resolution is declared invalid or unconstitutional by a court of competent jurisdiction, the remainder shall not be affected by such invalidity.

Section 6. **Effective Date.** This Resolution shall be effective immediately upon passage and shall remain in effect for no longer than 365 days.

PASSED and ADOPTED this _____ day of April, 2015

Nick Batos, Mayor

Attest:

Interim Village Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**

Burt Saunders, Interim Village Attorney

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|-------------------------|----------|---------|
| Mayor Batos | yes_____ | no_____ |
| Vice Mayor Levitan | yes_____ | no_____ |
| Councilmember Boesch | yes_____ | no_____ |
| Councilmember Brown | yes_____ | no_____ |
| Councilmember Errington | yes_____ | no_____ |
| Councilmember Ribble | yes_____ | no_____ |
| Councilmember Wilson | yes_____ | no_____ |